

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

IN RE:	§	CASE NO. 13-30466-BJH-13
ERVIN FRANK LAYER	§	
DEBTOR	§	CHAPTER 13
	§	
JPMORGAN CHASE BANK, NATIONAL	§	A HEARING ON THIS MOTION
ASSOCIATION, ITS SUCCESSORS AND	§	HAS BEEN SET FOR:
ASSIGNS	§	
MOVANT	§	AUGUST 19, 2014
VS.	§	1:15 P. M.
ERVIN FRANK LAYER, DEBTOR, AND	§	
LISSETTA C. LAYER, CO-DEBTOR, AND	§	
THOMAS POWERS, TRUSTEE	§	
RESPONDENTS	§	

**MOTION OF JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, ITS SUCCESSORS  
AND ASSIGNS FOR RELIEF FROM AUTOMATIC STAY AND CO-DEBTOR STAY  
AS TO 9814 FAIRCREST DRIVE, DALLAS, TX 75238**

PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(B), A RESPONSE IS  
REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY BE  
DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE  
ENTERED BY DEFAULT.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE UNITED  
STATES BANKRUPTCY COURT AT THE EARLE CABELL BUILDING, U.S. COURTHOUSE,  
1100 COMMERCE STREET - ROOM 1254, DALLAS, TX 75242-1496, BEFORE CLOSE OF  
BUSINESS ON AUGUST 14, 2014, WHICH IS AT LEAST 14 DAYS FROM THE DATE OF  
SERVICE HEREOF.\* A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING  
PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY RESPONSE  
SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE  
MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED.

\*UNDER BANKRUPTCY RULE 9006(E), SERVICE BY MAIL IS COMPLETE UPON  
MAILING; UNDER BANKRUPTCY RULE 9006(F), THREE (3) DAYS ARE ADDED TO THE  
PERIOD FOR ANSWER OR OTHER RESPONSE WHEN SERVICE IS BY MAIL.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, ITS  
SUCCESSORS AND ASSIGNS (hereinafter Movant), secured creditor and party in interest to the above-

styled proceeding and files this Motion for Relief from Automatic Stay and Co-Debtor Stay. In support of its Motion, Movant would respectfully state unto the Court as follows:

### I. JURISDICTION

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §1334 and 11 U.S.C. §§105, 362 and 1301 (co-debtor stay).
2. This is a core proceeding under 28 U.S.C. §157(b)(2)(G).

### II. FACTS

3. On or about February 1, 2013, ERVIN FRANK LAYER (hereinafter Debtor) filed a Voluntary Petition For Relief under Chapter 13 of the Bankruptcy Code, thereby initiating the above-styled Bankruptcy Case. Thomas Powers is the duly appointed and acting Trustee.

4. On June 01, 2004, Ervin F. Layer and Lisetta C. Layer, Co-Debtor executed a Note ("Note") in the original principal amount of \$141,000.00, payable to the order of Chase Manhattan Mortgage Corp. A co-debtor stay is applicable to LISETTA C. LAYER, who is not a debtor in this bankruptcy proceeding but is protected by the Co-Debtor Stay of 11 U.S.C. § 1301.

5. Concurrently with the execution of the Note, Ervin F. Layer, married and Lisetta C. Layer, married, executed a Deed of Trust granting Movant a lien on certain real property ("Property") to secure payment of the Note. The Deed of Trust grants Movant a lien on the Property described as follows:

LOT 2, BLOCK B/8078 OF WHITE ROCK NORTH, 14TH INSTALLMENT, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 874, PAGE 105, MAP RECORDS, DALLAS COUNTY, TEXAS.

Also known as:  
9814 FAIRCREST DRIVE  
DALLAS, TX 75238

The Deed of Trust was duly recorded in DALLAS County Deed Records.

6. JPMorgan Chase Bank, N.A., services the loan on the property referenced in this Motion for Relief. In the event the Automatic Stay in this case is lifted/set aside, this case dismisses, and/or the debtor obtains a discharge and a foreclosure action is commenced on the mortgage property, the foreclosure will be conducted in the name of JPMorgan Chase Bank, N.A. (Note Holder).

7. Note-holder, directly or through an agent, has possession of the promissory note. The promissory note is either made payable to Note-holder or has been duly endorsed to Note-holder. Note-holder is the original mortgagee or beneficiary or the assignee of the security instrument for the referenced loan.

8. Debtor alleges to be the current owner of record of the Property.

9. Debtor and Co-Debtor are in default on the obligation to Movant in that Debtor and Co-Debtor have failed to make installment payments when due and owing pursuant to the terms of the above-described Note.

10. As of June 25, 2014, the status of the indebtedness is as follows:

- a) Debtor and Co-Debtor are due for October 2013 post petition and subsequent months. Payments are currently \$1,220.97 per month. The unpaid principal balance due and owing to Movant on the Note is \$120,794.33.
- b) Additional fees have been incurred including Movant's attorney fees and costs in an amount not to exceed that set by local rule, practice, or order.

### III. RELIEF FROM THE STAY

11. Movant requests that this Honorable Court terminate the automatic stay pursuant to the provisions of the Bankruptcy Code to allow Movant to exercise all of its rights and remedies against the Debtor and Co-Debtor under state law, including, inter alia, foreclosing its lien on the Property.

12. Movant alleges that cause exists for the lifting of the stay and Movant's interest is not adequately protected.

13. It has been necessary for Movant to hire the law firm of Codilis & Stawiarski, P.C. to collect the debt owed to it through this Court. Pursuant to the Note and Deed of Trust, Movant is entitled to reimbursement of its reasonable attorneys' fees for their services.

14. Movant requests that an Order granting its motion for relief from automatic stay, if such Order should be entered, will be effective immediately and, Rule 4001 (a) (3), is waived, and enforcement of such Order will not be stayed until the expiration of ten days after entry of the Order.

15. Movant further request that upon entry of an order granting relief from stay, it be exempted from further compliance with Fed. Rule Bankr. P. 3002.1 in the instant bankruptcy case.

WHEREFORE, PREMISES CONSIDERED, Movant prays that this Court enter an Order granting relief from the automatic stay to allow Movant to exercise and enforce all its rights and remedies against the Debtor and Co-Debtor as a secured creditor and perfected lienholder to the Property; including, but not limited to, payment of bankruptcy attorney fees and costs, foreclosure and disposition of the Property, payment of costs, expenses, and reasonable attorneys' fees in accordance with the terms of the Note and Deed of Trust and for such other relief to which Movant may be justly entitled, either at law or in equity.

Respectfully submitted,  
**Codilis & Stawiarski, P.C.**

By: /s/ Angela K. Randermann  
Yvonne V. Valdez, SBOT 24069019  
Angela K. Randermann SBOT 24029787 (31688)  
650 N. Sam Houston Parkway East, Suite 450  
Houston, Texas 77060 (281) 925-5200  
Facsimile: (281) 925-5300  
**ATTORNEYS FOR MOVANT**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for Relief from Automatic Stay and Co-Debtor Stay was served on the following parties on July 31, 2014 at the addresses indicated by deposit in the United States Mail, first class postage prepaid and or by electronic notice on July 30, 2014.

ERVIN FRANK LAYER  
9814 FAIRCREST DR.  
DALLAS, TX 75238  
**DEBTOR**

LISSETTA C. LAYER  
9814 FAIRCREST DR.  
DALLAS, TX 75238  
**CO-DEBTOR**

WELDON REED ALLMAND  
5646 MILTON STREET, SUITE 120  
DALLAS, TX 75206  
**ATTORNEY FOR DEBTOR**

THOMAS POWERS  
125 E. JOHN CARPENTER FRWY., SUITE 1100  
IRVING, TX 75062-2288  
**CHAPTER 13 TRUSTEE**

UNITED STATES TRUSTEE  
1100 COMMERCE STREET  
ROOM 976  
DALLAS, TX 75242-1496

**ENTITY WITH INTEREST IN PROPERTY:**

BANK OF AMERICA HOME LOANS  
P.O. BOX 260489  
PLANO, TX 75026

CHASE HOME FINANCE  
3415 VISION DR.  
COLUMBUS, OH 43219

**PARTIES REQUESTING NOTICE:**

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION  
3415 VISION DRIVE  
COLUMBUS, OH 43219-6009  
**MOVANT**

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP  
RE: DALLAS COUNTY  
SHERREL K. KNIGHTON  
2323 BRYAN STREET, STE 1600  
DALLAS, TX 75201

PERDUE, BRANDON, FIELDER, COLLINS & MOTT, L.L.P.  
RE: RICHARDSON ISD  
C/O EBONEY COBB  
P.O. BOX 13430  
ARLINGTON, TX 76094-0430

PROBER & RAPHAEL, A LAW CORPORATION  
RE: BANK OF AMERICA, N.A.  
DEAN R. PROBER  
20750 VENTURA BOULEVARD, SUITE 100  
WOODLAND HILLS, CA 91364

Respectfully submitted,  
**Codilis & Stawiarski, P.C.**

/s/ Angela K. Randermann  
Yvonne V. Valdez, SBOT 24069019  
Angela K. Randermann SBOT 24029787 (31688)  
**ATTORNEYS FOR MOVANT**

44-12-6831  
XXXXXX7923  
LAYER, ERVIN FRANK  
Conventional

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**CERTIFICATE OF CONFERENCE ON MOTION FOR  
RELIEF FROM AUTOMATIC STAY AND CO-DEBTOR STAY**

COMES NOW Codilis & Stawiarski, P.C., Attorney for Movant, and affirms that the office of Debtor's Counsel, WELDON REED ALLMAND, was contacted. On July 8, 2014, counsel for Movant, Yvonne Valdez left a detailed voicemail message for WELDON REED ALLMAND advising that the Debtor had fallen behind on post petition mortgage installments to Movant and that a Motion for Relief from Stay was scheduled to be filed. A return phone call has not been received and Movant believes Debtor is opposed to such filing as Debtor's Counsel failed to respond to the creditor's communication (made during regular business hours) by the same time on the second business day after such communications. Codilis & Stawiarski, P.C. made a good faith effort to negotiate a settlement of the dispute with Debtor's Counsel.

Respectfully submitted,  
**Codilis & Stawiarski, P.C.**

By: /s/ Angela K. Randermann  
Yvonne V. Valdez, SBOT 24069019  
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